

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUAH McCAVITT.

No. 2:21-cv-00774 GGH P

Petitioner,

ORDER

PATRICK COVELLO, Warden,

Respondent.

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. However, the petition was not signed by petitioner. Parties proceeding without counsel are required to sign all pleadings, motions, and other papers submitted to the court for filing. Fed. R. Civ. P. 11(a). Thus, the court is unable to consider the petition unless petitioner signs and re-files the petition.

Petitioner will be provided an opportunity to re-file the petition bearing his signature. Petitioner may simply file a signature page referencing the already filed petition. Failure to submit a signed amended petition will result in a recommendation that this action be dismissed.¹

¹ Petitioner is cautioned that the habeas corpus statute imposes a one-year statute of limitations for filing non-capital habeas corpus petitions in federal court. In most cases, the one-year period will start to run on the date on which the state court judgment became final by the conclusion of direct review or the expiration of time for seeking direct review, although the statute of limitations is tolled while a properly filed application for state post-conviction or other collateral review is pending. 28 U.S.C. § 2244(d).

1 Moreover, petitioner has not filed an in forma pauperis affidavit or paid the required filing
2 fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Petitioner will be provided the opportunity to
3 either submit the appropriate affidavit in support of a request to proceed in forma pauperis or
4 submit the appropriate filing fee.

5 In accordance with the above, IT IS HEREBY ORDERED that:

6 1. Within thirty days from the date of this order, petitioner shall re-file a signed petition;²

7 2. Petitioner shall submit, within thirty days from the date of this order, an affidavit in

8 support of his request to proceed in forma pauperis or the appropriate filing fee; petitioner's

9 failure to comply with this order will result in a recommendation that this action be dismissed;

10 and

11 3. The Clerk of the Court is directed to send petitioner a copy of the in forma pauperis

12 form used by this district and the court's form application for writ of habeas corpus.

13 || Dated: May 24, 2021

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

²⁷ 2 By setting this deadline the court is making no finding or representation that the petition
28 is not subject to dismissal as untimely. See 28 U.S.C. § 2244(d).